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that the Clayton Bulwer treaty with Great Britain might operate to prevent the United States doing what some enterprising commercial men wish to have done by our government; and there is a certain feeling among members of the House of Representatives that until we get what we wish in regard to this canal, by England's consent or in spite of her, we do not wish to tie our hands with a treaty which might compel us to submit any disagreement to impartial arbitration. The matter had come up, therefore, before the House Committee on Foreign Affairs; it had been referred to a sub-committee; but though Dr. William Everett of Massachusetts, as chairman of that committee, had done everything he could to secure a favorable report, he had failed. We consulted with members of the Senate committee on Foreign Affairs, and on the whole they deemed it wise that the resolve should not be acted upon in the Senate; because, after the Executive negotiates a treaty, it then becomes the constitutional duty of the Senate to consider, act upon, and either accept or reject the treaty.

So we went back to the executive department, and had a brief but satisfactory interview with Mr. Gresham, who was very friendly to the cause in all the interviews we had with him;—I delight to do him this honor. Just at that time he was pre-occupied with other important business, and so the arbitration treaty waits for an opportune moment.

We do not want to underestimate the strength of our cause. I do not think there is the slightest reason for discouragement; great events come slowly. We need to appreciate what I was about to call the almost unanimous sentiment of this country in favor of this movement. The fact that a resolve like this passed unanimously in our House of Representatives, that it was passed without division in the House of Commons of Great Britain, shows that when the fit moment comes the treaty will be made.

I am delighted to think that we meet here to do what we can, in wise counsel, to expedite further this great cause which will unite the two great English-speaking nations in perpetual peace and amity. It will be an object-lesson to the rest of the world, and a very powerful step in the progress towards disarmament among the nations of Europe.

Just one word further about the relations that have existed between Great Britain and the United States, on a very important portion of the world's surface. It is not much known; it is one of those great things which have almost passed into oblivion because it has done its perfect work. How many of us know the fact that in 1817, after the war with Great Britain, the United States negotiated a short treaty, of about one page, which provided that on the chain of the Great Lakes, stretching so far across this continent, neither power should at any time have any vessel of war? Till the present time, nearly eighty years, the treaty has been faithfully observed, and the result is

that there are no fortresses, no preparations for war, by land or water, on that whole territory. We came very near to the abrogation of that treaty during our Civil War, but fortunately the notice that had been given by our government to Great Britain was withdrawn and rescinded, and the treaty stands. This illustration shows how efficacious is a wise step in the right direction.

How can we make our influence effective? I cannot refrain from saying how greatly encouraged I am when I see the men and women in this gathering, and feel, what we all must feel, that it is not a little local cause, that we are not isolated units struggling at a hopeless cause, but that we are united and resolute in behalf of a cause which is sure to win. Shall we not go home cheered and confident? We have the press with us; of course we know that the pulpit is on our side. It only needs determination among ourselves to secure the result which we have at heart to accomplish.

#### A BUSINESS MAN'S VIEW OF ARBITRATION.

BY JOSHUA L. BAILY.

Address given at the Mohonk Arbitration Conference, June 5th.

*Mr. Chairman, Ladies and Gentlemen*—Those who are engaged in commercial pursuits have especial occasion to notice how the barriers by which nations were once hedged in are being gradually removed. Not only are the natural barriers overcome by the spanning of rivers and the tunnelling of mountains, but the restrictions upon intercourse have been much abated. Passports are not so necessary as once they were. Our international postal system has contributed much towards a unification of interests, as have also the railways which interlace and bind whole continents with their net-work of steel. Electricity too has brought the nations into such close and instant communication that time and distance are well nigh annihilated and those who were one time far separated, have become near neighbors. There has been established a close community of interest and sympathy which could not permit of war between any two of the nations without most disastrous results to all.

Again it seems to me that the reference of national differences to some tribunal other than war is inevitable because of the frightful cost involved. I have somewhere seen it stated that fully one-third of all the revenues of the nations of Europe is required to pay the interest on their national debts, contracted, as you know, chiefly for war purposes; another third of the revenues goes to keep up the armies and navies on the present war footing, while only one-third remains for the civic administration and all other objects of government. Think of it! Two-thirds of all the revenues of the nations of Europe to meet the obligations of war, and only one-third for all other purposes whatever! And instead of diminishing, this sorrowful disproportion is increasing. To-day the standing armies of Europe number more than four millions (4,000,000) of men, not counting other millions of reserves. The number has nearly doubled in the last twenty years, and the national debts, incurred chiefly

for war purposes, have piled up to the almost inconceivable total of twenty-three thousand millions (23,000,000,000) of dollars. There must be a limit to this vast expenditure. Well may we ask whether the maximum has not been reached. Already some of the nations are dangerously near the vortex of bankruptcy.

For still another reason a resort to peaceful measures as a substitute for war seems inevitable. We must not lose sight of the contribution which science is making to this end. Think of the amazing increase in the murderous effectiveness of the weapons of war which has taken place in the last few years, say since the close of the Franco-German war. I read in a late paper that our Navy Department had recently adopted a rifle, the invention of a Connecticut artisan, which would fire five shots in three seconds and send a bullet through the bodies of two men standing one behind the other at the distance of three miles. And there are said to be cannon now in use by which a projectile can be thrown eight miles and at that distance penetrate an eighteen inch plate of Harveyized steel. I have heard also that a gun has been invented which will throw eighteen hundred shots in a minute.

To-day were two great nations to make their appeal to the arbitrament of war they might array their armies miles apart and yet murderously destroy each other, indeed a near approach would be impossible, and so wholesale would be the slaughter that there would be none left to care for the wounded or to bury the dead. Such warfare would be not conquest, not victory, but extermination for both armies.

Will not the nations stand aghast and hesitate long before entering upon a contest involving such direful consequences? Is it too much then to claim science as an ally, and that the very terrible effectiveness of these modern weapons of human butchery is a guarantee of peace?

While I speak of these material conditions as making inevitable the abandonment of war as a means of settling national differences, I by no means underestimate the value of moral agencies in creating a correct public sentiment. I agree with all that has been said here along that line. No one deprecates more than I do the spirit of militarism of which there has recently been such a widespread revival. The demand for military training in our schools and the establishment of Boys' Brigades even under the roofs of the churches should be an occasion of sorrow and alarm to all who believe that the true greatness, the prosperity and permanence of our nation will be found in the cultivation of the arts of peace rather than the arts of war. There are no doubt many good citizens who have taken up with this new movement inconsiderately, but whose sober second thought will condemn it.

The teaching of our schools has, I think, been all along in an erroneous direction; most of the histories which we put into the hands of the children speak of war as though it had been the most praiseworthy employment of mankind, and its heroes are held up for unstinted admiration, while the achievements of peace and the heroes of peace are too often only subordinately mentioned.

Notwithstanding some of these much to be regretted present conditions, it cannot be doubted that arbitration as a substitute for war is growing in popular favor.

Let it be our duty to keep this great question to the front, as second in national importance to no other, and concerning the welfare of not one nation only, but of all mankind.

## INTERNATIONAL JURISPRUDENCE.

BY SIR FREDERICK POLLOCK.

From an address delivered before the Harvard Law School Association June 25th.

Ten years ago the Supreme Court of the United States declared, in a judgment of admirable clearness and good sense, which I trust will be followed in England when the occasion comes, that in matters of general commercial principle "a diversity in the law as administered on the two sides of the Atlantic is greatly to be deprecated." Shall this remain for all time a mere deprecation, appealing forcibly, no doubt, to the best sense of our highest tribunals, but still subject to human accidents? Is there not any way beside and beyond the discussion of lawyers in books and otherwise, of assisting our ultimate authorities to agree? Would not the best and surest way be, that in matters of great weight and general importance to the common law, they should assist one another? Certainly there are difficulties in the way of any such process, but is there, in truth, any insuperable difficulty?

The House of Lords, as we know, is entitled to consult the judges of the land, though not bound either to consult them in any particular case, or, when they are consulted, to decide according to their opinion or that of the majority. There is nothing I know of in our constitution to prevent the House of Lords, if it should think fit, from desiring the judges of the Supreme Court of the United States, by some indirect process, if not directly, and as a matter of personal favor, to communicate their collective or individual opinions on any questions of general law. Nor, I should apprehend, can there be anything in the constitution of that most honorable court or the office of its judges to prevent them from acceding to such a request if it could be done without prejudice to their regular duties.

Could the precedent be made once or twice in an informal and semi-official manner, it might safely be left to posterity to devise the means of turning a laudable occasional usage into a custom clothed with adequate form. As for the difficulties, they are of the kind that can be made to look formidable by persons unwilling to move, and can be made to vanish by active good will. Objections on the score of distance and delay would be inconsiderable, not to say frivolous. From Westminster to Washington is for our mails and dispatches hardly so much of a journey as it was a century ago from Westminster to an English judge on the northern or western circuit.

Opinions from every supreme appellate court in every English-speaking jurisdiction might now be collected within the time that Lord Eldon commonly devoted to the preliminary consideration of an appeal from the master of the rolls. At this day there is no mechanical obstacle in the way of judgments being rendered which should represent the best legal mind, not of this or that portion of the domains that acknowledge the common law, but of the whole. There is no reason why we should not live in hope of our system of judicial law being confirmed and exalted in a judgment seat more than national, in a tribunal more comprehensive, more authoritative and more august than any the world has yet known.

Some one may ask whether we look to see these things ourselves or hope for them in our children's time. I cannot tell. The movement of ideas will not be measured beforehand in days or years.